

REMARKS

Reconsideration and further prosecution of the above-identified application are respectfully requested in view of the discussion that follows. Claims 25-46 are pending in this application, and claims 1-24 were cancelled when this continuation application was filed. Claims 25, 38 and 42 have been amended herein for the purpose of clarification, and a terminal disclaimer has been filed herewith. Claims 25-46 have been rejected under the judicially created doctrine of double patenting over claims of U.S. Pat. No. 6,282,284 and U.S. Pat No. 6,621,899. Claims 25, 27, 31, 37, 42, 45 and 46 have been rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 5,428,608 to Freeman et al. Claims 26, 29, 30, 34, 35, 38-41, 43 and 44 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Freeman in view of Payne, et al. (U.S. Patent No. 5,715,314). Claim 36 was rejected under 35 U.S.C. §103(a) as being unpatentable over Freeman in view of Stein, et al. (U.S. Patent No. 5,826,241); claim 28 was rejected under 35 U.S.C. §103(a) as being unpatentable over Freeman and Payne in view of Srinivasan (U.S. Patent No. 5,185,782); and claims 32 and 33 have been rejected under 35 U.S.C. §103(a) over Freeman in view of Srinivasan. After a careful review of the claims as amended, it is believed that the remaining claims are in allowable form and a Notice of Allowance is respectfully requested.

Claims 25, 27, 31, 37, 42, 45 and 46 have been rejected as being anticipated by Freeman. Freeman is directed to a method for establishing a separate second connection by voice thru an SVD modem (a modem for providing voice and data service on a single POTS connection, see col 1, lines 43-45) using the SVD data channel and for combining voice and data channels from separate sources to an SVD modem (col 5, lines 1-9). While Freeman provides for a voice channel, it uses the already existing data channel to send the destination address and cause the SVD modem of the requesting user to create a connection from the requesting user SVD modem

to the destination address to create the voice channel from the user to the destination (see col 13, lines 43-47, and fig 6). Freeman, however, does not describe the claimed agent-side creation of the communication link. The independent claim 25 calls for the voice channel to be initiated from agent to the user and independent claims 37 and 42 call for a command formatted to initiate a return link from the agent to the user. This is the opposite of Freeman and thus this claimed feature is not disclosed by Freeman. Therefore, all independent claims 25, 37, and 42 are believed to distinguish over Freeman as are claims 27, 31, 45 and 46 which are dependent upon allowable independent claims 25 and 42.

Claims 26, 29, 30, 34, 35, 38-41, 43 and 44 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Freeman in view of Payne, et al. Payne, et al. is directed to a computerized sales system which uses web pages but does not disclose a return voice communication or use of a web page with indicia to activate to request for a return voice communication. The Examiner has identified fig 14 which is a customer service form, but it does not concern voice communication in any respect and does not teach or suggest use for requesting a voice return communication. With regard to independent claims 25, 38 and 42, both Freeman and Payne fail to disclose a return voice communication link initiated from the agent as described above, and in addition, both fail to disclose the web page with the claimed indicia. Thus, the combination of Freeman and Payne do not render the independent claims 25, 38 and 42 obvious. Similarly, dependent claims 26-37, 39-41 and 43-46 are not rendered obvious by the combination of Freeman, Payne and any combination with the other cited references because they depend on allowable claims 25, 38 and 42. Further, claims 8 and 41 call for a time for the return communication. None of the references teach this feature. The Freeman system is specifically designed to create simultaneous data and voice connection and thus a time to call is not applicable, and Payne uses only data communications, for example, as in fig 14 by e-mail which

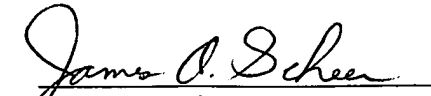
also does not need to have a re turn time. Thus, neither reference, nor any of the other cited references teach or suggest this feature.

Further, obviousness is a conclusion of law based on a number of underlying factual inquiries. *Constant v. Advanced Micro-Devices, Inc.*, 848 F.2d 1560, 1572 (Fed. Cir. 1988). The basic test for determining obviousness is governed by 35 U.S.C. Section 103 and as set forth by the Supreme Court in the seminal case of *Graham v. John Deere Co.*, 383 U.S. 1 (1966). It is well-settled law that the test for obviousness is based on three basic factual inquiries. First, the scope and content of the prior art are determined. Second, the differences between the prior art and the claims at issue are ascertained. Third, the level of ordinary skill in the pertinent art is resolved. These are the primary considerations. Against these basic inquires, the question of obviousness is resolved.

In this regard, Freeman is concerned with simultaneous voice and data communication using a modem pool of SVD modems while Payne et al. is directed to a computer sales system which uses web pages. Neither Freeman nor Payne, concern or recognize the problem solved by the claimed invention which concerns establishing a return voice link from an agent to a computer user. As a necessary consequence, the first and second factual inquires of Deere overwhelmingly suggest that the claimed invention is non-obvious in light of the inquiry.

As discussed above, claims 25-46 are not anticipated or rendered obvious by any combination of the cited references. Therefore, allowance of all pending claims 25-46 is believed to be in order and such action is respectfully requested. Should the Examiner be of the opinion that a telephone conference would expedite prosecution of the subject application, he is respectfully requested to telephone applicant's undersigned attorney.

Respectfully submitted,


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